notified the lessees that he would hold them for the deficiency. He now sues for this amount. *Held*, that he is entitled to recover. *Slayton* v. *Jordan*, 42 Wash. L. Rep. 708 (Dist. Col.).

If the lessee did not, in fact, consent to abandon his term, there was undoubtedly a termination by forfeiture. In such a case, the tenant is not liable for future rent. *Ex parte Houghton*, 1 Lowell (U. S.) 554. On the assumption apparently made by the court, however, that there was an abandonment, the great majority of the cases would agree that the estate was not ended, on the ground that there is no surrender when notice is given to the tenant, as in the principal case, of the reletting on his account. *Auer* v. *Penn*, 99 Pa. 370; *Oldewartel* v. *Wiesenfeld*, 97 Md. 165, 54 Atl. 969; *Brown* v. *Cairns*, 107 Ia. 727, 77 N. W. 478. *Contra*, *Gray* v. *Kaufman, etc. Co.*, 162 N. Y. 388, 56 N. E. 903. *Cf. Haycock* v. *Johnson*, 97 Minn. 289, 106 N. W. 304. Where it does not appear that notice was given, however, the authorities almost unanimously hold that there is a surrender. *Amory* v. *Kanhoffsky*, 117 Mass. 351; *Welcome* v. *Hess*, 90 Cal. 507, 27 Pac. 369; *contra; Auer* v. *Hoffman*, 132 Wis. 620, 112 N. W. 1090. On principle it is hard to see why mere notice should be decisive. The contractual theory of mitigation of damages has no application, for the landlord certainly is under no duty to care for the tenant's property in the leasehold, and, on strict theory, he has no right to intermeddle unless authorized. Accordingly, if the landlord relets without the express or implied assent of the tenant, he does an act entirely inconsistent with the continuance of the original lease. *Gray* v. *Kaufman, etc. Co.*, *supra*. To make such conduct operate as a surrender, however, fails to afford adequate protection to the landlord, and since the reletting will usually be for the best interests of the tenant as well, strong practical considerations justify the attitude generally taken by the authorities. The principal case properly applies this doctrine in spite of the provision for forfeiture in the lease, for that was inserted for the landlord's benefit and could therefore be waived by him. *Brown* v. *Cairns*, 63 Kan. 584, 66 Pac. 639.

LANDLORD AND TENANT — SURRENDER BY OPERATION OF LAW — VOID ASSIGNMENT OF THE ORIGINAL LEASE. — A tenant under a term for years with his landlord's consent assigned his lease to "the Merrimack Building Company," which entered into possession and paid rent. There was no law under which the associates could have incorporated and under these circumstances the law of the state allowed a collateral attack. The landlord claimed a merger of the term through a surrender by operation of law. *Held*, that the term still remained in the original tenant, but that an equitable interest passed to the associates of the company, and *decreed* that title be quieted in the latter. *Johnson* v. *Northern Trust Co.*, 106 N. E. 814 (Sup. Ct., Ill.).

For a discussion of the place of intent of the parties in the law of surrenders by operation of law, see NOTES, p. 313.

PARENT AND CHILD — PARENTS' LIABILITY FOR TORT OF CHILD — KNOWLEDGE OF PREVIOUS COMMISSION OF SIMILAR DANGEROUS ACT. — The defendant's minor son kicked the plaintiff, another infant, and injured him. It was alleged that the same boy had kicked the plaintiff on a previous occasion, and there was evidence that his father had notice of this fact. At the trial the jury found for the plaintiff. *Held*, that the defendant was not liable whether he had notice or not. *Corby v. Foster*, 29 Ont. L. R. 83 (Sup. Ct. Ont., App. Div.).

Under the civil law a parent is liable for the tort of his minor child. MERRICK, CIVIL CODE, LOUISIANA, § 2318; *Marionneaux* v. *Brugier*, 35 La. Ann. 13. But at common law the general rule is that the mere relation imposes no such liability upon the parent. *Bassett* v. *Riley*, 131 Mo. App. 676, 111 S. W.

596. The infants, if of a responsible age, are themselves liable for their own torts. See *Paul* v. *Hummel*, 43 Mo. 119; 14 HARV. L. REV. 71. Irrespective of the parental relationship, of course, the father may be liable on the principles of agency. *Teagarden* v. *McLaughlin*, 86 Ind. 476. See 28 HARV. L. REV. 91. Furthermore, if he stands by and does not restrain the child from doing the act, he is deemed to have authorized or consented to it and is liable. *Beedy* v. *Reding*, 16 Me. 362; *Hoverson* v. *Noker*, 60 Wis. 511. An action also lies if the father's own negligence was a proximate cause of the child's doing the injury, as where he gives the child a gun. *Meers* v. *McDowell*, 110 Ky. 926, 62 S. W. 1013; *Thibodeau* v. *Cheff*, 24 Ont. L. R. 214; *Johnson* v. *Glidden*, 11 S. D. 237. But even where the child is an imbecile there is no liability in the absence of negligence. *Bollinger* v. *Rader*, 153 N. C. 488, 69 S. E. 497. Similarly, mere notice of the vicious disposition of a child will not render the parent liable for its assaults. *Paul* v. *Hummel*, *supra*. See *Baker* v. *Haldeman*, 24 Mo. 219. It is submitted, therefore, that the principal case is correct in basing the liability on negligence, and in refuting the contention that by analogy to animals the parent was liable by reason of *scienter*.

PARTNERSHIP — RETIREMENT OF PARTNERS — LIABILITY OF NOMINAL PARTNER FOR INJURY TO INVITED PERSON. — A business formerly operated by father and son was continued after the father's retirement, and with his consent, under the old firm name of "E. Dieudonne & Son." The plaintiff, who had been a customer prior to the retirement and knew nothing of it, came to the firm's shop on business and was injured by the negligence of an employee. *Held*, that the retired partner is liable. *Jewison* v. *Dieudonne*, 149 N. W. 20 (Minn.).

A person who holds himself out as a partner may be responsible, under some circumstances, to those dealing with the firm. *Stearns* v. *Haven*, 14 Vt. 540. This liability, however, depends on principles of estoppel and not on general grounds of policy. *Rogers* v. *Murray*, 110 N. Y. 658, 18 N. E. 261. *Cf. Poillon* v. *Secor*, 61 N. Y. 456. Accordingly, if the person dealing with the firm does not know of the holding out or does not rely on it in so dealing, the nominal partner will not be liable. *Thompson* v. *First National Bank of Toledo*, 111 U. S. 529; *Wood* v. *Pennell*, 51 Me. 52. Contracts made with the ostensible firm frequently involve this reliance on the partnership. *Rice* v. *Barrett*, 116 Mass. 312. Tort liability, on the other hand, ordinarily arises without reference to the mental attitude of the injured person, and the basis for recovery against the nominal partner is, therefore, lacking. *Smith* v. *Bailey*, [1891] 2 Q. B. 403; *Shapard* v. *Hynes*, 104 Fed. 449. But when the tort arises out of a relation undertaken in reliance on the holding out, the necessary elements of estoppel seem to be present. *Maxwell* v. *Gibbs*, 32 Ia. 32. It is submitted that this same principle is the real basis of liability in certain cases of so-called "implied invitation." See *Holmes* v. *Drew*, 151 Mass. 578. Accordingly, in the principal case, if in fact the plaintiff had relied on the representation that the retired partner was still a member of the firm, in entering upon the relation of invitee, the liability would have been properly imposed. But inasmuch as the facts did not warrant that construction, the dissenting judges rightly refused to be satisfied with anything less than estoppel.

POLICE POWER — INTEREST OF PUBLIC ORDER — VALIDITY OF STATUTE PROHIBITING THE USE OF RED FLAGS IN PARADES. — Under a statute providing that "no red or black flag . . . shall be carried in parade within this commonwealth," the defendant was convicted for carrying a red flag in the parade of a Socialist organization. *Held*, that the statute is constitutional. *Commonwealth* v. *Karvonen*, 106 N. E. 556 (Mass.).

Courts cannot protect the people from unwise or oppressive legislation ex-